

*Request for Proposal*

Pre-Tax Commuter and FSA Administration

---

**Issued by  
The State of Delaware  
The State Employee Benefits Committee**

**&**

***Aon Consulting***  
***April 1, 2009***



## TABLE OF CONTENTS

---

<b>Section I.</b>	<b>Administrative Information .....</b>	<b>3</b>
<b>Section II.</b>	<b>Procedures &amp; Requirements .....</b>	<b>8</b>
<b>Section III.</b>	<b>Vendor Questionnaire.....</b>	<b>17</b>
<b>Section IV.</b>	<b>Performance Guarantees .....</b>	<b>30</b>
<b>Section V.</b>	<b>Cost Illustration.....</b>	<b>31</b>
<b>Section VI.</b>	<b>Requirements and Signature .....</b>	<b>34</b>
<b>Section VII.</b>	<b>Attachments .....</b>	<b>35</b>

## SECTION I. ADMINISTRATIVE INFORMATION

### A. Overview

The State Employee Benefits Committee (SEBC) seeks professional administrative services for the Flexible Spending Account (FSA) and Pre-Tax Commuter Benefit Programs for the State of Delaware (The State) effective January 1, 2010. This Request for Proposal (RFP) is issued pursuant to Title 29 Delaware Chapter 69 Secs. 6981 and 6982.

The State of Delaware Flexible Spending Account and Pre-Tax Commuter Benefit Programs are governed by the State Employee Benefits Committee (SEBC). This committee is chaired by the Director of the Office of Management and Budget. The Controller General, Insurance Commissioner, State Treasurer, Secretary of Health and Human Services and Secretary of Finance comprise the remainder of the Committee.

The proposed Schedule of Events subject to the RFP are as follows:

Public Notice	Date: April 1, 2009 and April 8, 2009
<b>Confirmation to bid &amp; Questions</b>	<b>Date: Friday, April 17, 2009</b>
Responses to Questions	Date: Wednesday, April 22, 2009
<b>Deadline for Receipt of Proposal</b>	<b>Date: Friday, May 8, 2009</b>
Presentations/Notification of Award	Date: June/July 2009

The proposal must conform to the requirements of the Proposal Procedures and the Required Information Sections of the RFP. The State specifically reserves the right to waive any informalities or irregularities in the proposal format. Each proposal must be accompanied by a cover letter which briefly summarizes the proposing firm's interest in providing the required professional services. The cover letter must also clearly state and justify any exceptions/deviations to the requirements of the RFP, which the applicant may have taken in presenting the proposal. The State reserves the right to deny any and all exceptions taken to the RFP requirements. RFP information can be obtained by emailing Finale Uptegrow directly at [finale.uptegrow@state.de.us](mailto:finale.uptegrow@state.de.us) or by downloading the document from the Government Support Services website at <http://gss.omb.delaware.gov/bids.shtml>.

The State Employee Benefits Committee for the State of Delaware reserves the right to reject any and all proposals or award to multiple vendors; however, **services sought under this Request for Proposal will not be awarded separately.**

**The State is requesting two different pricing scenarios:**

**Option 1: assume that the employees pay all of the administrative fees for the plan.**

**Option 2: assume that the State will pay the administrative fees.** These options should be noted for both the FSA and Pre-Tax Commuter Benefit plans.

The following information represents number of enrollees in each program:

#### **FSA:**

Health Care FSA Only: 4,667  
Dependent Care FSA Only: 776  
Both: 523  
**Total Count: 4,920**

#### **Pre-Tax Commuter:**

Parking: 191  
Parking & MT/VP: 2  
Mass Transit/Van Pool: 534  
**Total Count: 727**

## **B. Scope of Service for Flexible Spending Accounts**

### **I. Overview**

Currently the State of Delaware offers healthcare and dependent care flexible spending accounts (FSA) to **approximately 33,000 full-time and part-time eligible employees** under a voluntary Section 125 plan.

ASI currently provides FSA administration for the State of Delaware's healthcare and dependent care accounts. The plan year for the State of Delaware's flexible benefits is January 1 through December 31.

Please refer to Plan Information section of the RFP for requested plans and specifications.

### **II. Assumptions, Criteria and Specifications**

The selected organization will be required to perform the following basic services:

#### **1. Communication:**

- The State of Delaware requires the vendor to produce all communication materials for open enrollment and administration of the plan. This includes Annual Open Enrollment flyers and posters, the Enrollment form, Election Change form, Unpaid Leave of Absence Form, Claim Form, Direct Deposit Form and Summary Plan Descriptions. These documents should be available electronically and via hard copy to the State of Delaware. These documents should also reflect current regulations. Open enrollment materials should be made available for website posting and prospective vendors should also anticipate an annual open enrollment mailing. The cost illustration section includes an area to separately price these services and should include postage fees.
- The vendor will also provide notification of changes in regulations affecting the plans and provide advice to the State on ways to enhance understanding and participation in the plans
- The vendor will also provide confirmation statements and summary plan descriptions after the open enrollment period to each enrolled participant.

#### **2. Open Enrollment:**

- The State may conduct employee briefings and open enrollment sessions statewide each fall over a two-week period which the vendor should attend.
- Open Enrollment should be web based directly to the vendor. The vendor will capture the information and send an electronic file to the State to upload into the State's payroll system. State of Delaware will supply the eligibility file. As a requirement, the vendor must use the current file specs and will only receive the employee identification number and the last 4 digits of social security numbers as identifiable information. Under no circumstances will the full 9 digits for social security numbers be released.
- The State will upload the data and create an electronic file with all necessary information for the vendor containing the open enrollment information. The file will be available at a date to be determined following the open enrollment process. **(Use of current file specifications required)**

#### **3. Enrollment and Ongoing Eligibility:**

- The Statewide Benefits Office receives all new enrollments and election changes. The forms are entered into the payroll system by the Statewide Benefits Office. Terminations are processed automatically based on system rules.
- The State of Delaware payroll file will be updated regularly on a pay cycle basis and available via the FTP server noting payroll deductions and any new enrollments, changes and terminations

4. On-going Administration and Customer Service:

- Maintain a toll free phone number and reasonable hours of operation to accommodate Eastern Standard Time
- Provide dedicated account and member service to the State
- Maintain current, complete and confidential records for each covered participant
- Maintain on-going participant benefits information
- Maintain account balance information
- Provide claim forms (creation, production, and distribution)
- Accept claim forms via fax and mail
- Process claims no later than Friday on a weekly basis if received by close of business Wednesday and all necessary information is supplied
- Provide claim payment information to the State electronically every week and concurrently mail/email employees explanation of benefits to their homes. Vendor will reimburse employees through direct deposit.
- Perform necessary discrimination testing and information for federal documents as required
- Provide legal defense of claims
- Provide the State of Delaware with monthly billing of administrative fees
- Agree to State of Delaware payment procedures and timelines

5. Reporting:

- Provide the State of Delaware with bi-weekly utilization, reconciliation and cost reports
- Provide participants with account balance information quarterly as well as with each explanation of benefits that is mailed to their homes. (E- mail notification can be used if acceptable to participant)
- Provide reminder notices of remaining balances 60 days prior to the end of the plan year and 30 days prior to the end of the submission period
- Refer to Appendix C for full listing of standard reports

**III. Plan Information**

- Plan Year: January 1 – December 31
- Annual Open Enrollment conducted in month of November
- Maximum employee contributions to be allowed in the spending accounts are as follows:
  - Dependent Care: \$5,000 joint / \$2,500 for married filing separately (\$50 minimum)
- Health Care: \$4,000 per year (\$50 minimum)
- Eligibility
 

The eligibility rules for the flex plan(s) are as similar as possible to those of other benefits, primarily health care. Therefore, all permanent part-time and full-time employees will be eligible for the spending accounts.
- Enrollment

An employee can enroll in the plan the first of the month following 90 days of employment. Terminations and allowable election changes will be processed as they occur and noted on the biweekly file.

- **Different Employee Pay Periods**

It is noted that most employees are paid 26 times per year. There are a certain number of teachers that are paid 22 times a year or situations where employees are on unpaid leave. The flexible benefit plan stipulates that, upon return to paid status, the deductions will be increased to account for the unpaid time period in equal installments, until the end of the plan year. This will impact the design of any “salary reduction” agreement – particularly, flexible spending accounts and the proper administration of appropriate payroll deductions.

- **Grace Periods**

A 2 ½ month grace period is permitted following the end of the plan year to incur expenses for that plan year.

Example: Services incurred between 1/1/2011 and 3/15/2011 can be applied to plan year 2010 balances.

- **Overpayments**

Any overpayments, to the participants as a result of processing errors, will be at the expense of and the responsibility of the successful bidder.

## **C. Scope of Service for Pre-Tax Commuter Benefit Program**

### **I. Overview**

**The State of Delaware employs approximately 33,000 benefit eligible employees.**

The State of Delaware’s Pre-Tax Commuter Program allows employees to set aside Pre-Tax money to help pay for out-of-pocket parking, van pooling or mass transit expenses incurred as they travel to work. Employees authorize the State of Delaware to deduct a Pre-Tax amount for parking or vanpool/mass transit from each paycheck up to IRS limits. Employees can enroll, change, or cancel their enrollment anytime in this program through the administrator’s online enrollment website.

Currently 521 employees utilize the State’s vanpool program at a monthly cost of \$52.50 (cost is based on 10 riders utilizing each van – monthly cost could be higher if less than 10 employees on the van). Specifically, FLEET Link (the name of the State of Delaware’s vanpool program) rents vans at a cost of \$525.00 per month to a group of 4 or more State employees who form the vanpool. This monthly cost is the same, regardless of the size of the passenger van and FLEET Link allows each vanpool to determine how the monthly cost is to be divided amongst them. Some vanpools divide the cost equally amongst them while others exclude the driver then divide the cost equally. (The latter option is sometimes used when the only driver incurs a parking cost). Enrollment in the Pre-Tax commuter program is required if a participant is a Fleet Link rider. If a participant rides in the Fleet Link vanpool, the deduction information is collected and sent via a file from Fleet Link to the Plan Administrator on a biweekly basis. It is then the Plan Administrator’s responsibility to upload that information and take the proper deductions. The Plan Administrator will then reimburse the State of Delaware Fleet Link Division each month based on deductions taken.

Employees may also utilize (at their cost) the state's Delaware Transit Corporation ("DART") statewide bus service. In addition, there are more than 3,000 state employees that work in the downtown Wilmington area that may utilize parking services.

**Please note there is not an abundance of public transportation in the State of Delaware, so the level of participation will be lower than a similar sized group in a more metropolitan setting.**

## **II. Assumptions, Criteria and Specifications**

The scope of services shall include the following:

- Administration of Pre-Tax Commuter Benefit Program
- Communication Materials: flyers, posters, etc.
- Eligibility, including enrollment, premium and claim reconciliation
- Claim processing/reimbursement and voucher delivery
- Account management and customer service
- All aspects of enrollment into program
- Performance Standard Guarantees
- Ensure compliance with Federal tax laws, including any reporting requirements, and applicable State laws and regulations.
- Monthly reports of utilization
- Employee satisfaction survey specific to the State of Delaware
- All costs associated with the program shall be borne by the proposing firm
- Guarantee bid and fees to extend for a minimum of two years from submission of proposal
- Proposers will be responsible for total administration of the program.
- **Successful bidder must agree to accept the State's existing electronic file formats (formats are attached as an addendum).**

## **SECTION II. PROCEDURES & REQUIREMENTS**

### **A. Procedures**

#### **Proposal Review Committee (PRC)**

The PRC shall be comprised of representatives from each of the following offices: Office of Management and Budget; Controller General's Office; Department of Finance; Department of Health and Social Services; State Insurance Commissioner's Office; and the State Treasurer's Office. The PRC shall determine the firms which meet the minimum requirements pursuant to selection criteria of the RFP and procedures established in 29 Del.C. §6981 and 6982. The PRC shall interview at least one of the qualified firms.

The PRC shall make a recommendation regarding the award to the SEBC who shall have final authority, in accordance with the provisions of this RFP and 29 Del.C. §6982, to award a contract to the successful firm as determined by the SEBC in its sole discretion to be in the best interests of the State of Delaware. The SEBC may negotiate with one or more firms during the same period and may, at its discretion, terminate negotiations with any or all firms.

#### **Proposals**

Proposals must be submitted in writing (three original copies) and electronically (one PDF copy and one Word Processing document copy) with appropriate certification signatures as indicated.

In preparing your written response to any RFP question or request for information, repeat each question or requirement followed by your response.

Please provide complete answers and explain all issues in a concise, direct manner. If you cannot provide a direct response for some reason (e.g. your company does not collect or furnish certain information), please indicate the reason rather than providing general information that fails to answer the question. **“Will discuss”** and **“will consider”** are not appropriate answers. All information requested is considered important. If you have additional information you would like to provide, include it as an appendix to your proposal.

The SEBC will use the information contained in your proposal in determining whether you will be selected for contract negotiations. The proposal the SEBC selects will be a working document. As such, the SEBC will consider the proposal an integral part of the contract and will expect the proposing firm to honor all representations made in its proposal.

It is the proposing firm's sole responsibility to submit information relative to the evaluation of its proposal and the SEBC is under no obligation to solicit such information if it is not included with the proposing firm's proposal. Failure of the proposing firm to submit such information in a manner so that it is easily located and understood may have an adverse impact on the evaluation of the proposing firm's proposal.



## Important Dates:

**NOTE: The SEBC reserves the right to adjust this schedule as it deems necessary**

<b>April 1, 2009</b>	<b>RFP Initial Advertisement and Release</b>
<b>April 17, 2009</b>	<b>Confirmation to bid and questions due to the Statewide Benefits Office via email by 4:00 p.m. EST</b>
<b>April 22, 2009</b>	<b>Responses to questions provided via email</b>
<b>May 8, 2009</b>	<b>Proposals Due at the Statewide Benefits Office by 2:00 p.m. EST</b>
<b>June/July 2009</b>	<b>Presentations/Notification of Award</b>

If deemed necessary by the Proposal Review Committee, some or all Proposing Firms may be asked to make presentations in Dover, Delaware. All such presentations will be at the expense of the Proposing Firm.

### **Instructions for submitting proposals**

Two (2) electronic copies sent via email (PDF and Word Format) to  
Finale.Uptegrow@state.de.us

Three (3) original hard copies with signatures sent to:

**Finale Uptegrow**  
Management Analyst  
Statewide Benefits Office  
Office of Management & Budget  
500 W. Loockerman Street  
Suite 320  
Dover, DE 19904

### **Special Instructions for the electronic copies**

The PDF copy should contain scanned images of the signature page in areas where one is requested

***Proposals must be received both electronically and at the above address listed no later than 2:00 pm on May 8, 2009. Any proposal received after this date and time shall not be considered.***

**THE PROPOSING FIRM BEARS THE RISK OF DELAYS IN DELIVERY**

### **Confidentiality of Documents**

The OMB is a public agency as defined by state law, and as such, it is subject to the Delaware Freedom of Information Act, 29 Del. C. Ch. 100. Under the law, all the State's records are public records (unless otherwise declared by law to be confidential) and are subject to inspection and copying by any person. Proposing firms are advised that once a proposal is received by the State and a decision on contract award is made, its contents will become public record and nothing contained in the proposal will be deemed to be confidential except proprietary information.

Proposing firms should not include any information in their proposal that is proprietary in nature or that they would not want to be released to the public. Proposals must contain sufficient information to be evaluated and a contract written without reference to any proprietary information. If a proposing firm feels that they cannot submit their proposal without including proprietary information, they must adhere to the following procedure or their proposal may be deemed unresponsive and will not be recommended for selection. **Proposing firm must submit such information in a separate, sealed envelope labeled “Proprietary Information” with the RFP name included (Pre-Tax Commuter and FSA Administration RFP).** The envelope must contain a letter from the Proposing firm’s legal counsel describing the documents in the envelope, representing in good faith that the information in each document is not “public record” as defined by 29 Del. C. § 10002(d), and briefly stating the reasons that each document meets the said definitions. Upon receipt of a proposal accompanied by such a separate, sealed envelope, the State will open the envelope to determine whether the procedure described above has been followed.

### **Questions of Clarification**

All proposed vendors must submit their questions in writing electronically to Finale Uptegrow no later than **April 17, 2009** at 4:00 p.m. The Statewide Benefits Office will then put all questions received and the responses into one document and send to all vendors who **confirmed their intention to bid.**

### **Modifications to Submitted Proposal**

Any changes, amendments, or modifications to a proposal must be made in writing, submitted in the same manner as the original response and conspicuously labeled as a change, amendment or modification to a previously submitted proposal. Changes, amendments or modifications to proposals shall not be accepted or considered after the time and date specified as the deadline for submission of proposals.

### **Proposal**

The proposal shall become part of the contract in the event that the contract is awarded to your organization.

### **Right of Negotiation**

Discussions and negotiations regarding price and other matters may be conducted with vendor(s) who submit proposals determined to be reasonably susceptible of being selected for award, but proposals may be accepted without such discussions. The PRC reserves the right to further clarify and/or negotiate with the “proposing firm evaluated best” following completion of the evaluation of proposals but prior to contract execution, if deemed necessary by the PRC and/or the SEBC. The SEBC also reserves the right to move to the next best proposing firm if negotiations do not lead to a final contract with the best proposing firm. **The PRC and/or the SEBC reserves the right to further clarify and/or negotiate with the proposing firm(s) on any matter submitted.**

### **Representation Regarding Contingent Fees**

By submission of a proposal, the proposing firm represents that it has not retained any person or agency to solicit or secure a contract for the services described herein upon an agreement or understanding for a commission or a percentage, brokerage, or contingent fee. **The SEBC will not pay any brokerage fees for securing or executing any of the services outlined in this RFP. Therefore, all proposed fees must be net of commissions and percentage, contingent, brokerage, service, or finder’s fees.**

### **Certification of Independent Price Determination**

By submission of a proposal, the proposing firm certifies that the fees submitted in response to the RFP have been arrived at independently and without – for the purpose of restricting competition – any consultation, communication, or agreement with any other proposing firm or competitor relating to those fees, the intention to submit a proposal, or the methods or factors used to calculate the fees proposed.

### **Cost of Proposal Preparation**

All costs incurred by the proposing firm in preparing and delivering its proposal, making on-site presentations, and any subsequent time and travel to meet with the PRC and/or the SEBC regarding its proposal shall be borne at the proposing firm's expense.

### **Proposal Evaluation**

Vendors whose proposals are received by the deadline and meet the "Minimum Requirements" will be evaluated further. All proposals shall be evaluated using the same criteria and scoring process. The following criteria shall be used by the PRC to evaluate proposals.

<b>Evaluation Items</b>	<b>Maximum Points</b>
1. Overall cost	30
2. Plan administration capabilities	40
3. Experience/References	20
4. Performance guarantees	10
<b>Total Points</b>	<b>100</b>

All documentation submitted in response to this RFP and any subsequent requests for information pertaining to this RFP shall become the property of the State of Delaware, Office of Management and Budget and shall not be returned to the proposing firm. All proposing firms should be aware that government solicitations and responses are in the public domain. If the proposing firm wishes, those parts of its proposal dealing with trade secrets and commercial or financial information may remain confidential, but must be stated and clearly marked "private and confidential subject to 29 Del.C. Chapter 100." Such requests will not be binding on the Committee to prevent such a disclosure but may be evaluated under the provisions of 29 Del.C. Chapter 100. Any final decisions regarding disclosure shall be made at the sole discretion of the Committee.

### **Right to Consider Historical Information**

The PRC and/or the SEBC reserves the right to consider historical information regarding the proposing firm, whether gained from the proposing firm's proposal, question and answer conferences, references, or any other source during the evaluation process.

### **Right to Reject, Cancel and/or Re-bid**

The PRC and/or the SEBC specifically reserves the right to reject any or all proposals received in response to the RFP, cancel the RFP in its entirety, or re-bid the services requested.

## **State's Right to Award Multiple Source Contracting**

Pursuant to 29 Del. C. § 6986, the State of Delaware may award a contract for a particular professional service to two or more vendors if the agency head makes a determination that such an award is in the best interest of the State of Delaware.

## **Award of Contract**

The final award of a contract is subject to approval by the SEBC. The SEBC has the sole right to select the successful vendor(s) for award, to reject any proposal as unsatisfactory or non-responsive, to award a contract to other than the lowest priced proposal, to award multiple contracts, or not to award a contract, as a result of this RFP. Notice in writing to a vendor of the acceptance of its proposal by the State of Delaware and the subsequent full execution of a written contract will constitute a contract, and no vendor will acquire any legal or equitable rights or privileges until the occurrence of both such events.

## **RFP Award Notifications**

After reviews of the Proposal Review Committee and its recommendation, and once the contract terms and conditions have been finalized, the SEBC will award the contract. The contract shall be awarded to the vendor whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP. It should be explicitly noted that the SEBC is not obligated to award the contract to the vendor who submits the lowest bid or the vendor who receives the highest total point score, rather the contract will be awarded to the vendor whose proposal is the most advantageous to the State of Delaware. The award is subject to the appropriate State of Delaware approvals. After a final selection(s) is made, the winning vendor will be invited to negotiate a contract with the State of Delaware; remaining vendors will be notified in writing of their selection status.

## **B. Requirements**

The following information will be provided in each proposal in the order listed below. Failure to respond to any request for information may result in rejection of the proposal; at the sole discretion of the State:

### ***1. Minimum Requirements***

- Provide evidence of a Delaware Business License
- Provide evidence of professional liability insurance in the amount of \$5,000,000
- Services must extend to all eligible State of Delaware employees in all three Delaware counties
- Guaranteed rates for minimum of two years  
January 1, 2010 – December 31, 2011
- Must bid on both services in order to be considered
- Demonstrated experience servicing clients with an excess of 30,000 eligible lives/4,000 enrolled lives
- Current file specifications must be utilized (refer to Appendix)
- Performance Guarantees with at least 10% of administrative fees at risk
- Willingness to agree to the State's right to modify benefits during the contract period

- Willingness to supply the State with renewal information and/or contract amendments at least 150 days prior to renewal
- Willingness to invoice the State on a monthly basis
- HIPAA, EDI and Privacy compliance on behalf of State plans by compliance dates
- Significant changes that could negatively impact employees may take effect annually on the anniversary of the plan effective date. Such changes must be communicated in writing:
  1. Provide 60 days written notice to employees
  2. Provide 90 days notice to Statewide Benefits Office
- Provide a sample form of contract and all appendices and/or other documents requiring signature approval (including electronic) by the State of Delaware or its employees with your bid response (specific legal conditions as outlined in RFP must be included)

## **2. Service Requirements**

The following are details of services to be provided to the State of Delaware as part of the administrative services agreement.

### **Member Services Related**

- Multi-Lingual support from customer service representatives, communication materials, and website. ☐ Yes ☐ No
- Selected vendor will agree to reconcile claim reimbursement against funding requirements. ☐ Yes ☐ No
- Toll-free telephone and fax service provided to members. ☐ Yes ☐ No

### **Plan Set-Up and Maintenance Including Installation**

- Maintain up-to-date on-line policy data to support compliance with legislative changes (as appropriate), efficient claim processing, member services, internal and client reporting. ☐ Yes ☐ No
- Administer the commuter benefits program in accordance with federal law and where applicable, state law. ☐ Yes ☐ No

### **Eligibility**

- Selected vendor will accept the State of Delaware's eligibility determination. ☐ Yes ☐ No

### **Reimbursement/Refund**

- Selected vendor will process all applicable plan reimbursements and/or refunds owed, including remaining reimbursements/refunds due (if any) following contract termination (if it occurs) ☐ Yes ☐ No
- Reimbursement shall be in the form of direct deposit or personal check, at the employee's option. ☐ Yes ☐ No

### **Reconciliation**

- Selected vendor will agree to reconcile employee payroll with monthly administration costs and claims reimbursement. ☐ Yes ☐ No
- Selected vendor will assume responsibility for collecting any monies owed or refunded any monies due directly to/from employee ☐ Yes ☐ No

### **Records**

- All information, records, and other data are considered confidential and private. ☐ Yes ☐ No

- All data records (claims and administration) will be maintained by the administrator but will be the property of the State of Delaware (or another party designated by the State) within 30 days of notification of termination and without cost. ☐ **Yes** ☐ **No**
- You will agree to not use any State of Delaware data as part of larger data gathering or reporting without first obtaining written permission from the State of Delaware. ☐ **Yes** ☐ **No**
- You must allow the State of Delaware or its independent auditors to periodically review all records regarding the payment of claims at no charge to the State of Delaware, except auditor fees. State of Delaware must also be allowed to review its own claims by request ☐ **Yes** ☐ **No**
- You must maintain confidentiality of all shared employee data. ☐ **Yes** ☐ **No**

### **C. Evaluation Process**

All proposals submitted in response to the RFP will be reviewed by the Proposal Review Committee.

#### ***1. Proposal Committee***

The Committee will make a recommendation regarding the award to the SEBC, who will have final authority, subject to the provisions of this RFP and Title 29 Delaware Chapter 69 Secs. 6981 and 6982 to award a contract to the successful organization in the best interests of the State of Delaware.

#### ***2. Proposal Selection Criteria***

The Proposal Review Committee shall assign up to the maximum number of points as stated in this Section for each evaluation item to each of the proposing organizations. All assignments of points will be at the sole discretion of the Proposal Review Committee.

The proposals shall contain the essential information for which the award will be made. The information required to be submitted in response to this RFP has been determined by the SEBC and the Proposal Review Committee to be essential for the use by the committee in the evaluation and award process. Therefore, all instructions contained in this RFP will be met in order to qualify as a responsive and responsible contractor and participate in the Proposal Review Committee's consideration for award. Proposals which do not meet or comply with the instructions of this RFP may be considered non-conforming and deemed non-responsive and subject to disqualification at the sole discretion of the Committee.

The Committee reserves the right to:

- Select for contract or negotiations a proposal other than that with lowest costs
- Reject any and all proposals received in response to this RFP or to make no award or issue a new RFP
- Waive or modify any information, irregularity, or inconsistency in proposal received
- Request modification to proposals from any or all contractors during the review and negotiation
- Negotiate any aspect of the proposals with any organization and negotiate with more than one organization at the same time
- Select more than one contractor/vendor to perform the applicable services
- Award an additional contract to an additional vendor at any time

#### ***D. Contract Conditions***

The organization awarded the contract under this RFP will be subject to specific contract provisions as deemed necessary by the State of Delaware. A Business Associate Agreement will also need to be signed by the successful organization. This document has been attached for your signature.

##### ***1. Term***

The term of the contract between the successful organization and the State will be for two (2) years and may be renewed for three (3) additional one-year extensions at the discretion of the SEBC. The contract may be terminated by either party upon 150 days written notice. In the event the successful firm materially breaches any obligation under this Agreement, the State may terminate this Agreement upon thirty (30) days written notice.

##### ***2. Non appropriation***

In the event that the General Assembly fails to appropriate the specific funds necessary to continue the contractual agreement, in whole or in part, the agreement shall be terminated, as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available, at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

##### ***3. Notice***

Any notice to the State required under this Agreement will be sent by registered mail to:

Brenda Lakeman, Director  
Statewide Benefits Office  
The Duncan Center  
SLC - D620E  
500 West Loockerman Street, Suite 320  
Dover, DE 19904

##### ***4. Formal Contract***

The successful organization will promptly execute a contract incorporating the terms of this RFP within thirty **(30) days** after the award of the contract.

##### ***5. Indemnificaiton***

By submitting a proposal, the proposing organization agrees that in the event it is awarded a contract, it will indemnify and otherwise hold harmless the State of Delaware, its agents and employees from any and all liability, suits, actions, or claims, together with all costs, expenses for attorney's fees arising out of the organizations, its agents' and employees' performance of work services in connection with the contract, regardless of whether such suits, actions, claims or liabilities are based upon acts or failures to act attributable, in whole or in part, to the State, its employees or agents.

**6. *Compliance with Laws***

In performance of this contract the organization is required to comply with all applicable federal, state, and local laws, ordinance, codes, and regulations. The cost of permits and other relevant costs required in the performance of the contract will be borne by the successful organization. The Laws of the State of Delaware shall apply, except where the Federal Law has precedence. The successful organization consents to jurisdiction and venue in the State of Delaware.

**7. *Insurance***

The successful organization will maintain professional liability insurance in the amount of \$5,000,000.

**8. *Non-discrimination***

In performing the services subject to this RFP the organization agrees it will not discriminate against any employee or applicant for the employment because of race, creed, color, sex, or national origin. The successful organization will comply with all federal and state laws, regulations, and policies pertaining to the prevention of discriminatory employment practice. Failure to perform under this provision constitutes a material breach of contract.

**9. *Covenant against Contingent Fees***

The successful organization warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement of understanding for a commission or percentage, brokerage or contingent fee excepting bona-fide employees or bona-fide established commercial or selling agencies maintained by the bidder for the purpose of securing business. For breach or violation of this warranty the State will have the right to annul the contract without liability or its discretion to deduct for the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

**10. *Contract Documents***

The RFP response and the executed Contract between the State and the successful organization will constitute the Contract between the State and the organization. In the event there is any discrepancy between any of these contract documents, the following order of documents governs so that the former prevails over the latter; Contract, RFP response and RFP. No other documents will be considered. These documents contain the entire agreement between the State and the organization.

**11. *Scope of Agreement***

If the scope of agreement of any provision of this Contract is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision will be enforced to the maximum extent by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the contract will not thereby fail, but the scope of such provision will be curtailed only to the extent necessary to conform to the law.



### SECTION III. VENDOR QUESTIONNAIRE

#### ***General Information:***

1. What is the full name of your organization and the name, address and telephone number of the person responsible for the proposal?
2. Provide the address(es) and phone numbers of each of the following:
  - a) Home office
  - b) Sales/Service/Regional offices
3. Provide a brief history of your organization. Describe your company (number of employees, number of offices, etc.)
4. Provide a history of your organization as it relates to flexible spending account and Pre-Tax commuter benefit administration. How long has your organization provided flexible spending account administration? Pre-Tax commuter benefit administration?
5. Why should the State of Delaware purchase flexible spending account and Pre-Tax commuter benefit administrative services through your company? What sets your company apart from others offering similar services?
6. Please identify any existing public sector clients in which your organization provides both flexible account spending and Pre-Tax commuter benefit administration.
7. For both flexible spending administration and Pre-Tax commuter benefit administration, please provide a list of three (3) current and two (2) former employers of similar size (and, if possible public sector) for whom you provide(d) administration. Include the following:
  - a) Company Name
  - b) Address
  - c) Contact Name and Title
  - d) Telephone number
  - e) Number of eligible employees
  - f) # of participants in health and dependent care accounts/Pre-Tax
  - g) Number of years as client
8. What is the name and title of the person who would be responsible for the State of Delaware account? Where is this person headquartered? Please provide a brief biography that captures that person's experience and background in this area. (If there will be different individuals assigned to handle each component of administration, please provide this information for both).
9. How would you handle with State Holidays and emergency closings for the State of Delaware offices/banks in terms of payment by State or to members? Confirm your willingness to deviate from the typical timeframe for payments which may be impacted by holidays, emergency closings, fiscal year start-up or unforeseen circumstances.

10. Please provide an organization chart of employees who would be involved in this account along with their duties, titles, years of experience and physical locations. (If there will be separate staff to handle each component of administration, please provide staffing charts for each).
11. For each of the following areas, indicate if the State of Delaware will have a dedicated contact person and/or staff. Please describe how these areas work together.

	FSA Administration		Pre-Tax Administration	
Dedicated contact person:	Yes	No	Yes	No
a. Implementation	_____	_____	_____	_____
b. Eligibility	_____	_____	_____	_____
c. Billing/Accounting	_____	_____	_____	_____
d. Technical Support	_____	_____	_____	_____
e. Customer Service	_____	_____	_____	_____
f. Communications	_____	_____	_____	_____
g. Legal/Compliance	_____	_____	_____	_____

12. If dedicated contact persons are assigned, do you encourage employers to contact them directly, or work through the account executive? If you do not have dedicated individuals in these areas, how will the State of Delaware access these functions?
13. Describe any merger/acquisition plans your organization has been involved with in the past 24 months. Are there projected mergers, acquisitions or reorganization planned for your organization? If so, are these projected events reflected in your proposal? If not, how would The State of Delaware be impacted by such events?
14. Summarize any legal actions taken against your company in the past three years, including number of suits, causes of action, and amount of any monetary settlement or judgment.
15. The State of Delaware expects that your organization will maintain adequate levels of corporate/general liability insurance. Please describe the types of insurance and levels of coverage your organization maintains or provide a certificate of liability insurance.
16. Provide latest audited financial statement including sources and uses of funds.
17. Provide a sample administrative service contract to include flexible account spending and Pre-Tax commuter benefit administration.
18. Please provide your organization's confidentiality policies and precautions with respect to employee addresses and electronic security.
19. List your company's top 3 Quality Improvement (QI) programs for this business for 2008. What steps have you taken over the past year to improve your products and the experience of your customers?

20. How would you ensure the State's compliance with Federal tax laws and reporting requirements?
21. Describe your disaster contingency plans and procedures for this program.
22. What changes do you plan during the next 12 – 24 months to enhance your member service and technology capabilities?
23. Please outline any plans you have for system upgrades in the future? If you make system changes, how much latitude will the State be given in accepting these changes and in determining the time frame for their implementation?
24. Please describe any experience you may have with large employers who use People Soft HR systems and how your prior experience could benefit the State of Delaware.

## **Flexible Account Spending Administration**

### **Program Administration**

1. Provide an overview of the FSA plan administration services you will provide and your quoted rate. Please list any limitations and exclusions. NOTE: **We are requesting two options. Option 1 assumes that this will be an employee pay all program, therefore all administrative fees associated with the program are to be included in your quote. Please identify your rate separately from administrative charges and the final rate. For Option 2, assume that the State will pay the administrative fees.**
2. For year ending 2008, provide the following related to FSA Administration only:
  - a) Number of covered participants for which you provide FSA administration
  - b) Number of employers using your FSA services
  - c) Number of staff (full-time equivalent) dedicated to FSA administration.
5. Please confirm your willingness to assign a dedicated account manager at implementation and to have this person present and involved at all implementation meetings and phone calls.
6. What location would claims be paid out of?
7. Do you have a minimum participation requirement for the FSA? If so, how many? What would happen at the end of each enrollment period if the minimum were not achieved?
8. Do you require a minimum claim amount for submission and reimbursement? Do you require a minimum payroll deduction?
9. Explain how forfeitures are handled based on participant paying administrative fees versus State paying administrative fees.
10. Indicate any other charges not included in your quoted rate and any optional services you provide (not requested by the State of Delaware) in your fees.

11. How do you handle the following:
  - a. Mid-year (newly eligible) enrollees
  - b. Overpayments
  - c. Dependent care claim requests exceeding available funds
  - d. Calculation of annual amount for mid-year contribution amount changes
  - e. Reimbursement request for invalid or duplicate expenses
12. What days of the week are claims paid or are claims paid on an “as processed” basis? What is the processing time for claim payment (i.e. received by Tuesday, paid by Friday)?
13. Describe your billing process for administration fees.
14. How long are records retained? In what manner are they retained?
15. Upon termination of the contract, how long will issues/questions be addressed for employees and the State? What provisions would be made to provide requested documentation to the State from the beginning to the end of the contract?

#### **Program Implementation**

16. How many days lead time do you require for initial set up? Please explain your implementation process.
17. Please confirm that a dedicated account manager for FSA program administration will be assigned to the State’s account no later than 90 days prior to the contract effective date.
18. Please explain in detail the work plan for implementation of the FSA program administration. A timeline and project plan should be included as well as indication of persons/organizations responsible for each element. Please describe any informational brochures/guidelines you could provide for eligible employees.

#### **Debit Card Capabilities**

19. Describe your capabilities and process for potential debit card administration.
20. Can the card be customized for the State of Delaware?
21. Please describe how the Debit Card works for the program.
22. Is the card exclusively used to purchase qualifying healthcare expenses? Please describe how the card distinguishes between valid FSA purchases and other goods that are not eligible for reimbursement.
23. Of the employers who offer the debit card, must the individual participants request the card or is it sent to everyone?
24. Of your clients what percentages of their employees use the card versus cash reimbursement?

25. Under what circumstances will employees be required to provide substantiation of claim when utilizing the debit card?
26. Do you require a file from the medical vendor to justify co-payments/deductibles or simply a plan structure/description?
27. What is your procedure for handling debit card utilization from terminated employees?

**Member Communications/Enrollment/Customer Service**

28. Please describe in detail your communications capabilities both in terms of on-line and direct mail communications. Please provide sample communications materials and describe any additional cost associated with these services.
29. What communication/education pieces are available to employees at no charge? In what languages are the written materials available? Is there an additional charge for materials written in a language other than English? Is postage and fulfillment included in the fees quoted?
30. Please indicate your willingness to tailor standard application forms, claim for reimbursement forms, debit cards, etc. to meet the State of Delaware's needs. Is there a cost for customization?
31. Please indicate your willingness to participate in implementation enrollment meetings and annual benefit fairs throughout the organization. Would there be a cost? An average count of meetings would be 21 on an annual basis.

**Example – Open Enrollment**

3 meetings total for Benefit Representatives to explain the program and any changes  
 3 meetings per day - 3 days a week for 2 weeks during open enrollment period in each of the 3 counties

32. Please describe your online enrollment process for open enrollment.
33. Describe the structure and staffing of your customer service office, including the number of customer service representatives (CSR's). How many CSR's will be assigned to the State of Delaware? What is their average tenure?
34. Please provide the location of the call center which will be handling our account. Also, describe how overflow calls are handled and the location to which overflow calls are routed.
35. What are your member service hours of operation? What are your 24-hour customer service capabilities?
36. Is there a toll-free number available (at no additional charge) to answer questions? Please describe which days of the week and hours of the day a live telephone operator is available to answer questions.
37. Please describe any automated services available to employees regarding their accounts (i.e., voice response).

38. How do you accommodate non-English speaking callers—what languages are supported?
39. Describe your guidelines and requirements for continuing education among your staff for compliance and regulatory issues, customer service, and State of Delaware specific account information.
40. Does your organization offer a fully interactive website for members? Is it available 24 hours/day 7 days/week? What information is available for members? Is the web in multiple languages? Can links be made to the State of Delaware's internal website?
41. Provide a complete description of your customer service procedures from receipt of a question or complaint by telephone and/or letter to complete resolution.
42. Do your customer service representatives record each call and are calls monitored for quality? Are statistics available to the State for their own participants – volume, average wait time, abandonment rate, etc?
43. Please provide a sample claim form and EOB form.
44. Can employees submit claims via fax? Is the fax number toll free?
45. How often and when do you produce account statements for participants?
46. What information will employees furnish as proof that a claim was incurred with regard to the FSA? For network copayments? For services not covered by the medical or dental programs?

#### **File Processing and Reporting**

47. Describe your company's capabilities for sending and receiving data electronically to and from the State of Delaware—include the security standards and/or procedures you have in place. Provide a diagram and discuss your processing procedures, from receipt of file through load to your system. Include, if any, information on checkpoints, pre- and post-load validation, outputs, and timing. Identify all computer/software programs used in this process.
48. Attached find the file layouts for open enrollment and ongoing pay cycle information. Please confirm that you would be able to administer the current file layout and the process described above.
49. How frequently must the State submit eligibility data? Note: The State of Delaware would like to reduce risk of loss from terminated employees— please address steps to reduce this risk.
50. What is the average lag time between receipt of eligibility information and information downloading into your system? The maximum lag time?
51. How is enrollment and individual account balance information communicated to the State of Delaware?

52. Do you offer electronic funds transfer – EFT (direct deposit capability)? If not, do you plan to offer this feature in the near future?
53. Please indicate what reports are available monthly, quarterly, and annually at no charge (please attach samples)
54. How often and when do you produce participant account statements for The State of Delaware?
55. Please attach all standard reports. Which reports, if any, are available to the State of Delaware on-line?

### **Quality Indicators**

56. What was your average claim turnaround time for spending account reimbursements for full year 2007? For 2008? Year-to-date?
57. What was your FSA payment accuracy rate for full year 2008? For 2009 year-to-date?
58. For year-end 2007, 2008, and year-to-date, provide the following customer service statistics:
- Average speed of answer
  - Percent of telephone inquiries resolved during initial call
  - Total number of calls received

### **Pre-Tax Commuter Benefit Administration**

#### **Program Administration**

- Provide an overview of the Pre-Tax commuter benefit plan administration services you will provide and your quoted rate. Please list any limitations and exclusions. NOTE: **We are requesting two options. Option 1 assumes that this will be an employee pay all program, therefore all administrative fees associated with the program are to be included in your quote. Please identify your rate separately from administrative charges and the final rate. For Option 2, assume that the State will pay the administrative fees.**
- Does your per participant rate vary by number of employees enrolled in the program? If so, please indicate. Is the proposed rate tied to a minimum enrollment?
- What location would claims be paid out of?
- Do you have a minimum participation requirement for the Pre-Tax Commuter benefit? If so, how many? What would happen at the end of each enrollment period if the minimum were not achieved?
- Do you require a minimum claim amount for submission and reimbursement? Do you require a minimum payroll deduction?
- Explain the circumstances in which the proposed rates could be increased or decreased in the future.

7. For year ending 2008, provide the following related to Pre-Tax Commuter Administration only:
  - a) Number of covered participants for which you provide Pre-Tax administration
  - b) Number of employers using your Pre-Tax Commuter services
  - c) Number of staff (full-time equivalent) dedicated to Pre-Tax Commuter administration.
8. Describe the definition of participant and when the “per participant” rate is charged.
9. Indicate any other charges not included in your quoted rate and any optional services you provide (not requested by the State of Delaware) in your fees.
10. Describe your billing process for administration fees.
11. How long are records retained? In what manner are they retained?
12. Upon termination of the contract, how long will issues/questions be addressed for employees and the State? What provisions would be made to provide requested documentation to the State.
13. Do you subcontract any services for your Commuter Benefit programs? If so, please describe the relationship.

#### **Implementation**

14. How many days lead time do you require for initial set up? Please explain your implementation process.
15. Please confirm that a dedicated account manager for Pre-Tax commuter benefit program administration will be assigned to the State’s account during the implementation process and will participate in all meetings/conference calls.
16. Please explain in detail the work plan for implementation of the Pre-Tax commuter benefit program administration. A timeline and project plan should be included as well as indication of persons/organizations responsible for each element. Please describe any informational brochures/guidelines you could provide for eligible employees.

#### **Enrollment**

17. Provide a brief overview on how the enrollment process works. Describe how the procedure differs between various enrollment processes (IVR, Web, CSR, paper, etc.).
18. If you have enrollment on-line, please describe your security protocol and data capture process for on-line information.
19. Do enrollments carry over from month to month, or is re-enrollment required? From year to year?
20. Can you accept enrollment for amounts over the tax limit, and allow additional purchases over the tax limit on an after-tax basis?



21. How often may participants make changes to their payroll deductions?
22. Are there any cases where an employee forfeits money in the plan? Please describe.
23. Please indicate your willingness to participate in implementation enrollment meetings and annual benefit fairs throughout the organization. Would there be a cost?

**Member Communications/Customer Service**

24. Will you continue activities to promote the program after implementation? Please describe your marketing strategy.
25. How will you help to promote the program and increase participation?
26. What communication/education pieces are available to employees at no charge? In what languages are the written materials available? Is there an additional charge for materials written in a language other than English? Is postage and fulfillment included in the fees quoted?
27. Please indicate your willingness to tailor standard application forms, claim for reimbursement forms, debit cards, etc. to meet the State of Delaware's needs. Is there a cost for customization?
28. Describe the structure and staffing of your customer service office, including the number of customer service representatives (CSR's). How many CSR's will be assigned to the State of Delaware? What is their average tenure?
29. What are your member service hours of operation? What are your 24-hour customer service capabilities?
30. Is there a toll-free number available (at no additional charge) to answer questions and a toll free fax number? Please describe which days of the week and hours of the day a live telephone operator is available to answer questions.
31. Please describe any automated services available to employees regarding their accounts (i.e., voice response).
32. How do you accommodate non-English speaking callers—what languages are supported?
33. Describe your guidelines and requirements for continuing education among your staff for compliance and regulatory issues, customer service, and State of Delaware specific account information.
34. Does your organization offer a fully interactive website for members? Is it available 24 hours/day 7 days/week? What information is available for members? Is the web in multiple languages? Can links be made to the State of Delaware's internal website?
35. Provide a complete description of your customer service procedures from receipt of a question or complaint by telephone and/or letter to complete resolution.

36. Do your customer service representatives record each call and are calls monitored for quality? Are statistics available to the State for their own participants – volume, average wait time, abandonment rate, etc?

### **Voucher System**

37. Describe the arrangements that you have with voucher providers. Do any offer discounts that would be passed to our employees?
38. Describe your process for purchase and distribution of vouchers from the time and method of request to the final receipt of the vouchers by telephone and by the web.
39. What is the procedure for employees' receipt of vouchers? Describe any Affidavit of Receipt or similar documents that you maintain (e.g. that the voucher was received and is being used for work commute)?
40. Provide a list of commuter transit companies that would service the State of Delaware areas. Also, provide information if the voucher system is readily available at those transit companies.
41. What is the turn-around time for the issuance of a voucher? Please include estimated mail time to employees' home. What is the cut-off date by which an employee must submit a voucher request for the following month?
42. What is your procedure for lost vouchers? Is there a process for replacement of lost, stolen, or returned vouchers? If so, please describe the process, and any limitations.
43. What is your procedure for handling requests for vouchers from terminated employees?

### **Cash Reimbursement**

44. The State of Delaware would require you to process the reimbursement checks via direct deposit or sent to the employees' home. Is there a process for replacement of lost or returned checks? If so, please describe the process, and any limitations.
45. Describe your methodology for determining that a voucher is not "readily available" and that cash reimbursement is therefore permissible.
46. Do you have customized claim forms? In what languages are the claim forms available? How does an employee obtain the claim forms and submit the claim forms? What happens when an employee does not have a receipt for their purchase?
47. How often do you process cash reimbursements? What is the turnaround time for reimbursement after a claim is filed?
48. Will you review claims for reasonableness? That is, will claims for reimbursement be monitored for excessiveness or possible fraud?
49. What is your procedure for handling cash reimbursement claims from terminated employees?

50. Describe your process for reimbursements after end of the year when the services were incurred within the year.
51. Describe any time limits in place for reimbursements. Does this same time limit apply in the event of a plan termination? If not, please explain.
52. Is there any fee associated with participant reimbursement? Can you reimburse by direct deposit or check?

### **Debit Card**

53. Do you offer a debit card? If yes, describe the process to use a debit card.
54. Can the card be customized for the State of Delaware?
55. Tell us about the card network. Does the State of Delaware have access to the debit card network for commuter benefits purchases?
56. Is the card exclusively used to purchase commuter benefits? Is there a block so that a participant cannot use the card to purchase other goods?
57. Of your clients, what percentage of their employees use the card versus cash reimbursement?
58. For those areas that do not utilize the debit card, do you offer cash reimbursement and voucher purchases? If you only offer cash reimbursement, are you in compliance with IRS regulations on all provisions of the final transit benefit regulations?
59. What is your procedure for handling debit card utilization from terminated employees?

### **Parking**

60. Describe the arrangements that you have with contracted parking vendors. Identify all parking vendors with whom you have contracts. Do any offer discounts that would be passed to our employees?
61. How many parking vendors are under contract with your company? How is reimbursement handled? Voucher system, debit cards, or cash reimbursement? What percentage applies to each method? How many parking vendors are located in the City of Wilmington that are not under contract with your company? Would you be willing to risk performance guarantees on obtaining contracts with these vendors?

### **File Processing and Reporting**

62. Describe your company's capabilities for sending and receiving data electronically to and from the State of Delaware--include the security standards and/or procedures you have in place. Provide a diagram and discuss your processing procedures, from receipt of file through load to your system. Include, if any, information on checkpoints, pre- and post-load validation, outputs, and timing. Identify all computer/software programs used in this process.

63. Attached find the file layouts for ongoing pay cycle information. Please confirm that you would be able to administer the current file layout and the process described above.
64. How frequently must the State submit eligibility data? Note: The State of Delaware would like to reduce risk of loss from terminated employees– please address steps to reduce this risk.
65. What is the average lag time between receipt of eligibility information and information downloading into your system? The maximum lag time?
66. How is enrollment and individual account balance information communicated to the State of Delaware? For reporting purposes, can you separate data for participants who use mass transit, parking or cash reimbursement?
67. Do you offer electronic funds transfer – EFT (direct deposit capability)? If no, do you plan to offer this feature in the near future?
68. Please indicate what reports are available monthly, quarterly, and annually at no charge (please attach samples)
69. How do you capture information for pre- and post-tax elections?
70. Please attach all standard reports. Which reports, if any, are available to the State of Delaware on-line?

#### **Funding, Accounting and Reconciliation**

71. Describe your banking/funding procedures and flow of funds (include flowchart).
72. Please describe the timing of when payroll deductions are taken. Are they taken in advance? (i.e., deductions must be taken in March for purchase of April vouchers).
73. Do you hold the funds in-house after payroll deduction, or do you allow the State of Delaware to hold the funds until such time as a request is made to issue a voucher/fare media or a reimbursement request is made?
74. What is your process for reconciliation of funding (employee deductions) versus paid claims with the State of Delaware?
75. Please provide any other details of your reconciliation process.
76. How are surpluses and deficits handled?
77. Describe your process for receiving/crediting payment for your services.
78. Please specify how the State of Delaware is notified of individual account balances. Would the State be notified of remaining account balances in the event of a contract termination?

**Quality Indicators**

79. For year-end 2007, 2008, and year-to-date, provide the following customer service statistics:

- a. Average speed of answer
- b. Percent of telephone inquiries resolved during initial call
- c. Total number of calls received

80. Describe the problem resolution system you have implemented to respond to disputes from employees and vendor providers. How do you track responses to formal disputes and how many were filed on average per client during 2007-2008? What is the average turnaround time for each step in the process?

81. How often do you measure employee satisfaction with your program? Please attach a copy of the most recent survey with results.

#### SECTION IV. PERFORMANCE GUARANTEES

Describe in detail any performance guarantees you are willing to offer below. A combination of objective (i.e. claim turnaround time) and subjective (account service satisfaction) would be preferred. **\*\*Please provide in this format**

Performance Measures/Standards	% of Fees At Risk
A. Call Center / Customer Service	
B. Claims Processing	
C. Claims Accuracy	
D. Information Processing / Reporting	
E. Overall Account Service Satisfaction	
F. Other Standards	
G. Implementation (Year One)	
<b>Total % of Fees At Risk</b>	<b>%</b>

- A minimum of 10% of your administrative fees at risk for poor performance is required. **For the first year of the contract fees at risk have to include implementation as a performance guarantee category.**
- Would you continue these measures into subsequent renewal years? \_\_\_\_\_
- Please provide any standard performance guarantee categories and measurements you are able to administer (i.e., guarantee on turnaround time). Describe how you will measure performance against the guarantees and the portion of your fee you are willing to put at risk. Break them out according to the sections above.

**Please include a detailed performance guarantee proposal as an attachment to your bid response that reflects the 10% risk fee arrangement. Final Performance Guarantees will be negotiated during the Finalist process.**

## SECTION V. COST ILLUSTRATION

### A. Flexible Spending Accounts Program

Identify all fees to be charged to The State of Delaware to administer its flexible spending accounts and specify the frequency of eligibility and reimbursement transmissions applicable to your quote. Please specify how the fee is charged (i.e. flat fee, per participant, per transaction, etc.). Be sure to record all fees in the chart below.

Service	Health Care	Dependent Care	Health & Dependent Care
Initial Set-Up Fee <i>(Indicate per participant or flat fee)</i>	\$	\$	\$
Annual Fee <i>(per participant)</i>	\$	\$	\$
Monthly Administration Fee (Per participant) <i>(show w/ vendor handling the check, EOB, and direct deposit)</i>	\$	\$	\$
Misc. Fees <i>(list in detail) (per head or flat fee )</i>	\$	\$	\$
Reporting (standard-list what is included) *If there was any reporting required in the bid but not part of the standard provide the price and some detail	\$	\$	\$
Discrimination Testing and federal reporting <i>(per head or a flat fee)</i>	\$	\$	\$
Creation of open enrollment material, SPDs, election change forms, unpaid LOA forms, claim forms, and direct deposit forms. <i>(not production)</i>	\$	\$	\$
Other (please specify), including account service, consultation, legal advice, etc.	\$	\$	\$
Open Enrollment Mailings <i>(pre and post enrollment mailings to include postage)</i>	\$	\$	\$
Total Cost Including all of the above PEPM	\$	\$	\$

- Are there any services listed contained in the RFP that are not included in the above fees? If so, please indicate.

2. Are there additional services within your fees above, which were not included in the RFP? If so, please describe.
3. Are there any charges that are not included above?
4. If an employee participates in both HCFSA and DCFSA, is the fee reduced? If so, please explain in detail.
5. Are you able to guarantee the above fees for two years or longer? Please explain any guarantee you are able to provide.
6. What additional services are available? What is the cost of each additional service?

#### B. Pre-Tax Commuter Benefit Program

Identify all fees to be charged to The State of Delaware to administer its Pre-Tax Commuter Benefit program and specify the frequency of eligibility and reimbursement transmissions applicable to your quote. Please specify how the fee is charged (i.e. flat fee, per participant, per transaction, etc.). Be sure to record all fees in the chart below.

Service	
Initial Set-Up Fee ( <i>Indicate per participant or flat fee</i> )	\$
Annual Fee ( <i>per participant</i> )	\$
Monthly Administration Fee (Per participant) ( <i>show w/ vendor handling the check, EOB, and direct deposit</i> )	\$
Misc. Fees ( <i>list in detail</i> ) ( <i>per head or flat fee</i> )	\$
Reporting (standard-list what is included) *If there was any reporting required in the bid but not part of the standard provide the price and some detail	\$
Creation of communication materials and any required forms. ( <i>not production</i> )	\$
Other (please specify), including account service, consultation, legal advice, etc.	\$
Total Cost Including all of the above PEPM	\$

7. Are there any services listed in *the RFP* that are not included in the above fees? If so, please indicate.



8. Are there additional services within your fees above, which were not included in *the RFP*? If so, please describe.
9. Are there any charges that are not included above?
10. Are you able to guarantee the above fees for two years or longer? Please explain any guarantee you are able to provide.
11. What additional services are available? What is the cost of each additional service?

## SECTION VI. REQUIREMENTS AND SIGNATURE

By signature of an officer, you are confirming that your proposal meets the following requirements and that all information contained in your quote is accurate.

1. Effective date will be January 1, 2010.
2. Services are quoted based on the specifications set forth in this request for proposal.
3. Any amounts not included in the administration fee should be clearly stated.
4. Reports must be available as part of your program.
5. All rates must be guaranteed for at least two (2) full years. Multi-year rate guarantees will be considered. The fee should include the full cost of administering the plans, all acquisition costs, and all other services requested in the RFP, unless noted.
6. Confirmation of agreement to adhere to Minimum Requirements of the entire bid and the Assumptions, Criteria, and Specifications of each applicable section **or provide a detailed explanation for those to which you do not agree or need to provide alterations (See Attachment 9 on next page).**

(Name of company) is providing the following benefits:

---

---

---

Signature: \_\_\_\_\_

Contact for Questions: \_\_\_\_\_

Phone Number: \_\_\_\_\_

## **SECTION VII. ATTACHMENTS**

### **A. Provided as part of the Request for Proposal**

**Appendix A** - Business Associate Agreement

**Appendix B** - Standard Listing of Reports

**Appendix C** - Descriptive Listing of File Names/Layouts

**Appendix D** - Pay cycle file layout (both programs)

Delfsa.dat – outgoing to vendor bi-weekly after payroll deduction

Decptin.dat – Pre-Tax Commuter inbound from vendor biweekly before each pay period

Decptout.dat – Pre-Tax Commuter outbound to vendor biweekly after each pay period

**Appendix E** - Van Pool (fleet link file layout)

**Appendix F** - Open enrollment file layout (Flexible Spending Accounts Program)

**Appendix G** - Pre-Tax eligibility file (inbound)

**B. Please provide samples of the following as specific attachments:**

**Attachment 1**

All standard reports that would be provided to the State of Delaware – include a brief description of each report and the frequency with which it will be provided.

**Attachment 2**

Member communication materials, brochures, debit card, website demo--describe any additional charges for communication materials.

**Attachment 3**

Customer Satisfaction Program – quality satisfaction surveys.

**Attachment 4**

Vendor's Attachment of Performance Guarantee Document

**Attachment 5**

Sample Forms – Applications, Enrollment forms, Election change forms, Unpaid LOA forms, Direct Deposit forms, Claim Forms, Cash Reimbursement Forms, Voucher Affidavit of Receipt forms, employees account statements (if applicable).

**Attachment 6**

Sample Contract, appendices and other documents requiring signature by the State of Delaware or its employees

**Attachment 7**

Most recent Audited Financial Statement

**Attachment 8**

Confidentiality Policies and Precautions with respect to employee addresses and electronic security

**Attachment 9**

Confirmation of agreement to adhere to Minimum Requirements of the entire bid and the Assumptions, Criteria, and Specifications of each applicable section **or provide a detailed explanation for those to which you do not agree or need to provide alterations**

## BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“BA Agreement”) is undertaken pursuant to the parties’ performance of the Group Contract (“Contract”) for the Plan year beginning on \_\_\_\_\_, 200\_ by and between the State of Delaware by and through the State Employee Benefits Committee (“Plan Sponsor”), on its own behalf and on behalf of the group health plan it sponsors for employees or other covered persons (“Group Health Plan” or “the Plan”), and \_\_\_\_\_ (“Contractor”).

In the performance of services on behalf of the Plan pursuant to the Contract, and in order for Contractor to use, disclose or create certain information pursuant to the terms of the Contract, some of which may constitute Protected Health Information (“PHI”) (defined below), Contractor is a Business Associate of the Plan as that term is defined by the Health Insurance Portability and Accountability Act of 1996 and its implementing Administrative Simplification regulations (45 C.F.R. parts 142, 160, 162 and 164) (“HIPAA”). Accordingly, Contractor, the Plan and Plan Sponsor mutually agree to modify the Contract to incorporate the terms of this BA Agreement to comply with the requirements of HIPAA, and to include additional provisions that Plan Sponsor, the Plan and Contractor desire to have as part of the Contract.

Therefore, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the parties agree as follows:

### **I. DEFINITIONS**

- A. **Covered Entity.** “Covered Entity” shall mean Group Health Plan.
- B. **Individual.** “Individual” shall have the same meaning as the term “individual” in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- C. **Required By Law.** “Required By Law” shall have the same meaning as the term “required by law” in 45 CFR 164.501.
- D. **Secretary.** “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.
- E. **Protected Health Information.** “Protected Health Information” or “PHI” shall mean individually identifiable information created or received by a health care provider, health plan, employer or health care clearinghouse, that: (i) relates to the past, present, or future physical or mental health or condition of an individual, provision of health care to the individual, or the past, present or future payment for provision of health care to the individual; (ii) identifies the individual, or with respect to which there is a reasonable basis to believe the information can be used to identify the individual; and (iii) is transmitted or maintained in an electronic medium, or in any other form or medium. “Protected Health Information” shall be limited to the information created or received by Contractor from or on behalf of Covered Entity.
- F. **Standard Transactions.** “Standard Transaction(s)” shall mean a transaction that complies with the standards set forth at 45 C.F.R. part 162.

**G. Designated Record Set.** “Designated Record Set” shall mean:

A group of records maintained by or for a covered entity that is:

- i) The medical records and billing records about individuals maintained by or for a covered health care provider;
- ii) The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
- iii) Used, in whole or in part, by or for the covered entity to make decisions about individuals.

**H. Covered Person.** “Covered Person” means the Covered Employee and the Covered Employee’s legal spouse and/or unmarried dependent children as specified in the Plan or elsewhere in the Contract as Employee or Insured.

**I. Summary Health Information.** “Summary Health Information” means information, which may be Protected Health Information, (1) that summarizes the claims history, claims expenses, or types of claims experienced by Covered Persons for whom a Plan Sponsor has provided health care benefits under the Plan, and (2) from which the identifiers specified in 45 Code of Federal Regulations §164.514(b)(2)(i) have been deleted (except that the zip code information described in 45 Code of Federal Regulations §164.514(b)(2)(i)(B) may be aggregated to the level of a five (5) digit zip code).

**J. Electronic Protected Health Information.** “Electronic Protected Health Information” shall mean PHI that is subject to the Security Rule, limited to such information created, received, maintained, or transmitted electronically.

**K. Security Incident.** “Security Incident” shall have the same meaning as “security incident” in 45 CFR 164.304, limited to any such incident involving Electronic Protected Health Information.

**L. Security Rule.** “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Parts 160, 162 and 164.

**M.** All other capitalized terms used in this BA Agreement shall have the meanings set forth in the applicable definitions under the HIPAA Privacy Rule or the Standards for Electronic Transactions.

**II. PERMITTED USES AND DISCLOSURES BY CONTRACTOR**

**A.** During the continuance of the Contract, Contractor will manage, operate and administer the Plan, and will perform the usual and customary services necessary in connection with the Plan, as outlined in the Contract. These services include Payment activities, Health Care Operations, and Data Aggregation as these terms are defined in 45 Code of Federal Regulations §164.501. In connection with the services to be performed pursuant to the Contract, Contractor is permitted or required to use or disclose Protected Health Information it creates or receives for or from the Plan or to request protected health information on the Plan’s behalf as follows:

- B. Functions and Activities on the Plan's Behalf.** Unless otherwise limited in this BA Agreement, Contractor may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the Plan as specified in the Contract. Contractor may decide in its own reasonable discretion what uses and disclosures of PHI are required for it to perform administrative services for the Plan as outlined in this BA Agreement and in the Contract as well as in accordance with the law.
1. Use for Contractor's Operations. Contractor may use Protected Health Information it creates or receives for or from the Plan for Contractor's proper management and administration or to carry out Contractor's legal responsibilities in connection with services to be provided under the Contract.
  2. Disclosures for Contractor's Operations. Contractor may disclose the minimum necessary of such Protected Health Information for Contractor's proper management and administration or to carry out Contractor's legal responsibilities, but only if the following conditions are met:
    - a. The disclosure is required by law; or
    - b. Contractor obtains reasonable assurance, evidenced by written contract, from any person or organization to which Contractor will disclose such Protected Health Information that the person or organization will:
      - i) Hold such Protected Health Information in confidence and use or further disclose it only for the purpose for which Contractor disclosed it to the person or organization or as required by law; and
      - ii) Promptly notify Contractor (who will in turn promptly notify the Plan) of any instance of which the person or organization becomes aware in which the confidentiality of such Protected Health Information was breached.
  3. Minimum Necessary Standard. In performing functions and activities in connection with the Contract, Contractor agrees to make reasonable efforts to use, disclose or request only the minimum necessary PHI to accomplish the intended purpose of the use, disclosure or request.
- C. Data Aggregation Services.** The Plan agrees and recognizes that Contractor performs Data Aggregation services for the Plan, as defined by the HIPAA Privacy Rule. In the course of performing normal and customary services under the Contract, this data aggregation is an essential part of Contractor's work on behalf of the Plan under the Contract. Accordingly, Contractor can perform these data aggregation services in its own discretion, subject to any limitations imposed by the Contract. The term "Data Aggregation" is defined under the HIPAA Privacy Rule to mean, with respect to PHI created or received by a Business Associate in its capacity as the Business Associate of a covered entity, the combining of such PHI by the Business Associate with the PHI received by the Business Associate in its capacity as a Business Associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.

**D. Prohibition on Unauthorized Use or Disclosure**

1. Non-permitted Use and Disclosure of PHI. Contractor will neither use nor disclose Protected Health Information it creates or receives for or from the Plan or from another Business Associate of the Plan, except as permitted or required by the Contract and this BA Agreement, as required by law, as otherwise permitted in writing by the Plan, as authorized by a Covered Person.
2. Disclosure to the Plan and the Plan Business Associates. To the extent permitted or required by the Contract and this BA Agreement, Contractor will disclose PHI to other Business Associates of the Plan which the Plan has identified in a writing provided to Contractor. Contractor shall only disclose such PHI to such Business Associates, in their capacity as Business Associates of the Group Health Plan. Other than disclosures permitted by this Section II or as otherwise specifically identified in the Contract, Contractor will not disclose Covered Persons' Protected Health Information to the Plan or to a Business Associate of the Plan except as directed by the Plan in writing.
3. No Disclosure to Plan Sponsor. Contractor will not disclose any Covered Persons' Protected Health Information to Plan Sponsor, except as permitted by and in accordance with Section VIII or as otherwise specifically identified in the Contract.

**III. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR**

- A. Contractor will develop, document, implement, maintain and use appropriate administrative, technical and physical safeguards to preserve the integrity and confidentiality of, and to prevent non-permitted use or disclosure of, PHI created or received for or from the Plan.
- B. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Protected Health Information by Contractor in violation of the requirements of this BA Agreement.
- C. Contractor agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this BA Agreement or otherwise in writing by the Plan.
- D. Contractor will require that any agent, including a subcontractor, to whom it provides Protected Health Information as permitted by this BA Agreement (or as otherwise permitted with the Plan's prior written approval), agrees to the same restrictions and conditions that apply through this BA Agreement to Contractor with respect to such information.
- E. Contractor agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Contractor on behalf of, Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- F. Contractor agrees to implement administrative, physical, and technical safeguards (as set forth in the Security Rule) that reasonably and appropriately protect the confidentiality and integrity (as set forth in the Security Rule), and the availability of Electronic Protected Health Information, if



any, that Contractor creates, receives, maintains, or transmits electronically on behalf of Covered Entity.

- G. Contractor agrees to report to Covered Entity any Security Incident of which Contractor becomes aware.
- H. Contractor agrees to ensure that any agent, including a subcontractor, to whom it provides Electronic Protected Health Information, agrees to implement reasonable and appropriate safeguards to protect such information.

#### IV. **INDIVIDUAL RIGHTS OBLIGATIONS**

- A. **Access.** Contractor and the Plan agree that, wherever feasible, and to the extent that responsive information is in the possession of Contractor, Contractor will provide access to Protected Health Information as required by 45 Code of Federal Regulations §164.524 on the Plan's behalf. Contractor will provide such access according to its own procedures for such access. Contractor represents that its procedures for such access comply with the requirements of 45 Code of Federal Regulations §164.524. Such provision of access will not relieve the Plan of any additional and independent obligations to provide access where requested by an individual. Accordingly, upon the Plan's written or electronic request or the direct request of a Covered Person or the Covered Person's Personal Representative, Contractor will make available for inspection and obtaining copies by the Plan, or at the Plan's direction by the Covered Person (or the Covered Person's personal representative), any Protected Health Information about the Covered Person created or received for or from the Plan in Contractor's custody or control contained in a Designated Record Set, so that the Plan may meet its access obligations under 45 Code of Federal Regulations §164.524. All fees related to this access, as determined by Contractor, shall be borne by Covered Persons seeking access to PHI.
- B. **Amendment.** Contractor and the Plan agree that, wherever feasible, and to the extent that responsive information is in the possession of Contractor, Contractor will amend Protected Health Information as required by 45 Code of Federal Regulations §164.526 on the Plan's behalf. Contractor will amend such PHI according to its own procedures for such amendment. Contractor represents that its procedures for such amendment comply with the requirements of 45 Code of Federal Regulations §164.526. Such amendment will not relieve the Plan of any additional and independent obligations to amend PHI where requested by an individual. Accordingly, upon the Plan's written or electronic request or the direct request of a Covered Person or the Covered Person's Personal Representative, Contractor will amend such PHI contained in a Designated Record Set, in accordance with the requirements of 45 Code of Federal Regulations §164.526. Upon receipt of written or electronic notice from the Plan, Contractor will amend or permit the Plan access to amend any portion of the Protected Health Information created or received for or from the Plan in Contractor's custody or control, so that the Plan may meet its amendment obligations under 45 Code of Federal Regulations §164.526.
- C. **Disclosure Accounting.** So that the Plan may meet its disclosure accounting obligations under 45 Code of Federal Regulations §164.528, Contractor and the Plan agree that, wherever feasible and to the extent that disclosures have been made by Contractor, Contractor will provide the accounting that is required under 45 Code of Federal Regulations §164.528 on the Plan's behalf. Contractor will provide such accounting according to its own procedures for such accounting.

Contractor represents that its procedures for such accounting comply with the requirements of 45 Code of Federal Regulations §164.528. Such provision of disclosure accounting will not relieve the Plan of any additional and independent obligations to provide disclosure accounting where requested by an individual. Accordingly, upon the Plan's written or electronic request or the direct request of a Covered Person or the Covered Person's Personal Representative, Contractor will provide an accounting as set forth below.

1. Disclosure Tracking

Starting April 14, 2003, Contractor will record each disclosure of Covered Persons' Protected Health Information, which is not exempted from disclosure accounting that Contractor makes to the Plan or to a third party.

The information about each disclosure that Contractor must record ("Disclosure Information") is (a) the disclosure date, (b) the name and (if known) address of the person or entity to whom Contractor made the disclosure, (c) a brief description of the Protected Health Information disclosed, and (d) a brief statement of the purpose of the disclosure.

For repetitive disclosures of Covered Persons' Protected Health Information that Contractor makes for a single purpose to the same person or entity (including the Plan), Contractor may record (a) the Disclosure Information for the first of these repetitive disclosures, (b) the frequency, periodicity or number of these repetitive disclosures, and (c) the date of the last of these repetitive disclosures.

2. Exceptions from Disclosure Tracking

Contractor is not required to record disclosure information or otherwise account for disclosures of PHI that this BA Agreement or the Plan in writing permits or requires: (i) for the purpose of the Plan's payment activities or health care operations, (ii) to the individual who is the subject of the PHI disclosed, or to that individual's personal representative; (iii) to persons involved in that individual's health care or payment for health care; (iv) for notification for disaster relief purposes, (v) for national security or intelligence purposes, (vi) to law enforcement officials or correctional institutions regarding inmates; (vii) pursuant to an authorization; (viii) for disclosures of certain PHI made as part of a limited data set; (ix) for certain incidental disclosures that may occur where reasonable safeguards have been implemented; and (x) for disclosures prior to April 14, 2003.

3. Disclosure Tracking Time Periods

Contractor will have available for the Plan or for Covered Persons the Disclosure Information required for the six (6) years immediately preceding the date of the Plan's request for the Disclosure Information (except Contractor will not be required to have Disclosure Information for disclosures occurring before April 14, 2003).

**D. Right to Request Restrictions and Confidential Communications**

So that the Plan may meet its obligations to evaluate requests for restrictions and confidential communications in connection with the disclosure of PHI under 45 Code of Federal Regulations §164.522, Contractor and the Plan agree that, wherever feasible and to the extent that communications are within the control of Contractor, Contractor will perform these evaluations on behalf of the Plan. Contractor will evaluate such requests according to its own procedures for such requests, and shall implement such appropriate operational steps as are required by its own procedures. Contractor represents that its procedures for evaluating such requests comply with the requirements of 45 Code of Federal Regulations §164.522. Such evaluation will not relieve the Plan of any additional and independent obligations to evaluate restrictions or implement confidential communications where requested by an individual. Accordingly, upon the Plan's written or electronic request or the direct request of a Covered Person or the Covered Person's Personal Representative, Contractor will evaluate requests for restrictions and requests for confidential communications, and will respond to these requests as appropriate under Contractor's procedures.

**V. OBLIGATIONS OF THE PLAN AND PLAN SPONSOR**

- A.** Covered Entity shall provide Contractor with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Contractor's permitted or required uses and disclosures.
- B.** Covered Entity shall notify Contractor of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522.
- C.** Covered Entity shall not request Contractor to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity except as provided in this BA Agreement. In no event shall Covered Entity request Contractor to disclose to Covered Entity or agents of Covered Entity any Protected Health Information unless such disclosure is the minimum necessary disclosure that satisfies the request and that such disclosure is solely for the purpose of treatment, payment or plan operations.

**VI. BREACH OF PRIVACY OBLIGATIONS**

Without limiting the rights of the parties under the Contract, the Plan will have the right to terminate the Contract if Contractor has engaged in a pattern of activity or practice that constitutes a material breach or violation of Contractor's obligations regarding Protected Health Information under this BA Agreement and, on notice of such material breach or violation from the Plan, fails to take reasonable steps to cure the breach or end the violation.

If Contractor fails to cure the material breach or end the violation after the Plan's notice, the Plan may terminate the Contract by providing Contractor written notice of termination, stating the uncured material breach or violation that provides the basis for the termination and specifying the effective date of the termination. Such termination shall be effective 60 days from this termination notice.

- A.** Effect of Termination.

1. Return or Destruction upon Contract End

Upon cancellation, termination, expiration or other conclusion of the Contract, Contractor will if feasible return to the Plan or destroy all Protected Health Information, in whatever form or medium (including in any electronic medium under Contractor's custody or control), that Contractor created or received for or from the Plan, including all copies of such Protected Health Information that allow identification of any Covered Person who is a subject of the Protected Health Information. Contractor will complete such return or destruction as promptly as practical after the effective date of the cancellation, termination, expiration or other conclusion of the Contract.

Following notice and good faith negotiation between Contractor and Plan Sponsor as to the reasonable costs, Plan Sponsor will reimburse Contractor's reasonable cost incurred in returning or destroying such Protected Health Information subject to the requisite appropriation by the Delaware General Assembly as required by Title 29 Delaware Code Chapter 65 and Article 8, Section III of the Delaware Constitution.

2. Disposition When Return or Destruction Not Feasible

The Plan recognizes that in many situations, particularly those involving data aggregation services performed by Contractor for the Plan and others, that it will be infeasible for Contractor to return or destroy PHI. Accordingly, where in Contractor's discretion such return or destruction is infeasible, for any such PHI, upon cancellation, termination, expiration or other conclusion of the Contract, Contractor will limit its further use or disclosure of the Protected Health Information to those purposes that make their return to the Plan or destruction infeasible.

**VII. PLAN SPONSOR'S PERFORMANCE OF PLAN ADMINISTRATION FUNCTIONS**

- A. **Communication of PHI.** Except as specifically agreed upon by Contractor, the Plan and Plan Sponsor, and in compliance with any requirements imposed by this Section VIII, all disclosures of PHI from Contractor pursuant to the Contract shall be made to the Plan, except for disclosures related to enrollment or disenrollment in the Plan.
- B. **Summary Health Information.** Upon Plan Sponsor's written request for the purpose either (a) to obtain premium bids for providing health insurance coverage for the Plan, or (b) to modify, amend or terminate the Plan, Contractor is authorized to provide Summary Health Information regarding the Covered Persons in the Plan to Plan Sponsor.
- C. **Plan Sponsor Representation.** Plan Sponsor represents and warrants (A) that the Plan has been established and is maintained pursuant to law, (B) that the Plan provides for the allocation and delegation of responsibilities for the Plan, including the responsibilities assigned to Contractor under the Contract, (C) that the Plan includes or incorporates by reference the appropriate terms of the Contract and this BA Agreement, and (D) that Plan Sponsor has

amended the Plan to incorporate the provisions required by 45 Code of Federal Regulations §164.504, and agrees to comply with the Plan as amended.

- D. **Plan Sponsor's Certification.** Contractor will not disclose Covered Persons' Protected Health Information to Plan Sponsor, unless and until (1) Plan Sponsor furnishes Contractor through the Plan certification that Plan Sponsor has amended the Plan to incorporate the provisions required by 45 Code of Federal Regulations §164.504, and agrees to comply with the Plan as amended, and (2) the Plan authorizes Contractor in writing to disclose the minimum necessary Covered Persons' Protected Health Information to Plan Sponsor for the plan administration functions to be performed by Plan Sponsor as specified in the amendment to the Plan .
- E. **Contractor Reliance.** Contractor may rely on Plan Sponsor's certification and the Plan's written authorization, and will have no obligation to verify (1) that the Plan has been amended to comply with the requirements of 45 Code of Federal Regulations §164.504 or this BA Agreement or (2) that Plan Sponsor is complying with the Plan as amended.
- F. **The Plan Amendment.** Before the Plan will furnish Plan Sponsor's certification described above to Contractor, the Plan will ensure (1) that its Plan is amended to establish the uses and disclosures of Covered Persons' Protected Health Information consistent with the requirements of 45 Code of Federal Regulations Part 164 that Plan Sponsor will be permitted and required to make for the plan administration functions Plan Sponsor will perform for the Plan, and (2) that Plan Sponsor agrees to all the applicable conditions imposed by §164.504 on the use or disclosure of Protected Health Information.

## VIII. **MISCELLANEOUS**

- A. **Regulatory References.** A reference in this BA Agreement to a section in the Privacy Rule means the section as in effect or as amended, and for which compliance is required.
- B. **Survival.** The respective rights and obligations of Contractor under Section IV of this BA Agreement shall survive the termination of this BA Agreement.
- C. **Interpretation.** Any ambiguity in this BA Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Rule. Except to the extent specified by this BA Agreement, all of the terms and conditions of the Contract shall be and remain in full force and effect. In the event of any inconsistency or conflict between this BA Agreement and the Contract, the terms and provisions and conditions of this BA Agreement shall govern and control. Nothing express or implied in this BA Agreement and/or in the Contract is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties, any rights, remedies, obligations, or liabilities whatsoever. This BA Agreement shall be governed by and construed in accordance with the same internal laws that are applicable to the Contract.
- D. **Duration.** This BA Agreement will continue in full force and effect for as long as the Contract remains in full force and effect. This BA Agreement will terminate upon the cancellation, termination, expiration or other conclusion of the Contract.

- E. **Term.** The Term of this BA Agreement shall be effective as of April 14, 2003, and shall terminate when all of the Protected Health Information provided by Covered Entity to Contractor, or created or received by Contractor on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions of this BA Agreement.
- F. **Amendment.** Upon the effective date of any final regulation or amendment to final regulations with respect to Protected Health Information, Standard Transactions, the security of health information or other aspects of the Health Insurance Portability and Accountability Act of 1996 applicable to this BA Agreement or to the Contract, this BA Agreement will automatically amend such that the obligations imposed on Plan Sponsor, the Plan and Contractor remain in compliance with such regulations, unless (1) Contractor elects to terminate the Contract by providing Plan Sponsor and the Plan notice of termination in accordance with the Contract at least thirty (30) days before the effective date of such final regulation or amendment to final regulations; or (2) Contractor notifies the Plan of its objections to any such amendment. In the event of such an objection, the parties will negotiate in good faith in connection with such changes or amendment to the relevant final regulation.
- G. **Conflicts.** The provisions of this BA Agreement will override and control any conflicting provision of the Contract. All non-conflicting provisions of the Contract will remain in full force and effect.
- H. **Independent Relationship.** None of the provisions of this BA Agreement are intended to create, nor will they be deemed to create any relationship between the parties other than that of independent parties contracting with each other as independent parties solely for the purposes of effecting the provisions of this BA Agreement and the Contract.
- I. **Rights of Third Parties.** This BA Agreement is between Contractor and the Plan and the Plan Sponsor and shall not be construed, interpreted, or deemed to confer any rights whatsoever to any third party or parties.
- J. **Notices.** All notices and notifications under this BA Agreement shall be sent in writing by traceable carrier to the listed persons on behalf of Contractor, the Plan and Plan Sponsor at the addresses indicated on page 11 hereof, or such other address as a party may indicate by at least ten (10) days' prior written notice to the other parties. Notices will be effective upon receipt.
- K. **Expenses.** Unless otherwise stated in this BA Agreement or the Contract, each party shall bear its own costs and expenses related to compliance with the above provisions. Any additional expenses incurred by Contractor in connection with services to be provided pursuant to this BA Agreement shall be included in the Contract.
- L. **Documentation.** All documentation that is required by this BA Agreement or by the HIPAA Privacy Rule must be retained by Contractor for six years from the date of creation or when it was last in effect, whichever is longer.

Agreed by and between the undersigned Parties this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

**For State of Delaware:**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Plan Contact Name and Title for Notices**

\_\_\_\_\_  
**Address 1 for Notices**

\_\_\_\_\_  
**Address 2 for Notices**

**For:**

**COMPANY NAME** \_\_\_\_\_

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Title**

Attention:

\_\_\_\_\_  
**Printed Name**

**Address for Notices:**

\_\_\_\_\_

\_\_\_\_\_  
HIPAA Privacy Office

## **Appendix B**

### **Standard Listing of Reports**

#### **Year-to-Date Status Report**

This monthly and annual report summarizes (by person) all year-to-date participant activity. It includes each participant's name, Employee ID plus last 4 of the SSN. For both the health care flexible spending account and the dependent care assistance plan, the report contains the annual election amount, amount contributed year-to-date, amount requested year-to-date, amount reimbursed year-to-date, account balance, available amount, coverage start date, coverage end date, amount deducted per pay check, and the number of pay checks expected for the year.

A separate report is provided for 22 pay period people and 26 pay period people as well as separate reports for the current plan year and the previous plan year through the claims run-out period.

A similar report is provided for the qualified pre-tax commuter program. However, the pre-tax commuter program report includes data for each participant since the beginning of the employee's participation since pre-tax commuter programs do not have a "plan year."

#### **Discrepancy Reports**

The vendor receives employee contribution data for each spending account from PHRST for each payroll issue. The vendor compares this actual payroll information with the expected deductions based on the original enrollment data and updates due to changes in status.

The report lists each employee whose payroll contribution does not match the amount expected by the vendor. The payroll issue date is listed in the top right hand corner of the page. Each employee's name, employee id plus last the four of his/her SSN, and pay cycle are listed for each employee with a discrepancy.

#### **Weekly listing of payments**

The weekly listing of payments or reimbursement listing summarizes claims payment activity during the specified period within the selected plan year. The total claims payments for health care and the total claims payments for dependent care are listed for each day of the reporting period. The number of reimbursements issued by check and the number of reimbursements issued by direct deposit (ACH) are also listed. The Reimbursement Listing also includes detail payment information for each participant. Separate reports are provided for 22 and 26 pay period people. Separate reports are provided for the current and previous plan years.

#### **Claim volume summary**

This report summarizes monthly claim volume. It lists the number of approved health care claims and the number of approved dependent care claims as well as the number of claim rejection notices sent for each month in the reporting period. Separate reports are provided for 22 and 26 pay period people.

#### **Fee listing**

This report lists each employee for whom we are billing the state for the month. It includes the employee's name, monthly fee amount and the account or accounts in which the employee is currently enrolled. This report is generated at the end of the month.

#### **Other reports, etc.**



In addition to the above reports, the vendor receives a file from Fleet-Link each month that includes for each person in the Fleet-Link program, the employee id (without the last four of the SSN), the employee's name, and the amount that the employee will be paying for ridership in two months. The vendor checks this file against an eligibility file provided by PHRST and reports any discrepancies to Fleet-Link and/or the State. The vendor verifies employee id and name.

The vendor should also operate a continuous on-line enrollment/change system for the pre-tax commuter program through which an employee can enroll, terminate, or make changes to his/her pre-tax commuter deductions and specify a parking vendor.

The vendor provides a data file to PHRST prior to each payroll that instructs PHRST how much to deduct for that payroll. This file combines the data from Fleet-Link (divided by 2) and the on-line system. The deductions are split between non-taxable and taxable based on the maximum federal limits for Parking and/or Van Pool for that month.

The vendor should operate an on-line enrollment system for the H.C.F.S.A. and the D.C.A.P. during the annual open enrollment period. Following the close of open enrollment, the vendor provides a file to the State which PHRST uses to set up deductions for the up-coming plan year.

The vendor conducts discrimination testing using data provided by the State and enrollment data from the vendor's system.

## **Appendix C**

### **Descriptive Listing of File Names/Layouts**

- Decptout.dat – This file represents the pre-tax commuter deductions taken from employees in a pay period.
- Decptin.dat – This file contains employee pre-tax commuter deduction amounts for the pay period as supplied by the vendor.
- Delfsa.dat – This file is used to provide vendor with FSA enrollee benefit, personnel, and deduction data.
- Delfsaoe.dat – This file represents the employees eligible and enrolled for FSA benefits.
- Tra\_elig.txt (DHR944) – The vendor will use this full file of eligible State employees on a scheduled basis.
- Fleet Link - The vendor receives this file on a monthly basis from Fleet Link.

## Appendix D

### Pay Cycle File Layout

Delfsa.dat – outgoing to vendor bi-weekly after payroll deduction

#### REVISION HISTORY

Modified By:	Date	Comments	Change Control Reference Number
Al Ricketts	03/12/2009	Add SSN to the end of JOB.EMPID. New field name: JOB.EMPLID_SSN with a length change from 6 to 10. File layout start and end position increased by 4 positions.	N/A

#### General Information

- ❖ Acronym – Delaware Flexible Spending Account (Central Bank/ASI)
- ❖ Use(s) – Used to provide vendor with FSA enrollee benefit, personnel, and deduction data.
- ❖ File type – ASCII
- ❖ File Media – SFTP from Enna Server
- ❖ File Availability – File will be available bi-weekly.

#### File Layout

<b>Detail Record:</b>				
Field Name	Start Position	End Position	Length/Type (Char or Num)	Comments
NAMES.FIRST_NAME	1	30	30	Character / Initcap
NAMES.LAST_NAME	31	60	30	Character / Initcap
PERS_DATA_EFFDT.SEX	61	61	1	Number '1' = male, '2' = female If the gender is unknown then default to '1' = Male
EMPLOYMENT STATUS	62	63	2	Number '01' = active, '04' = terminated
JOB.DEL_NUM_PAYS	64	65	2	Number
JOB.EMPLID_SSN	66	75	10	Number
JOB.DEPTID	76	84	9	Character
FSA_BENEFIT. COVERAGE_BEGIN_DT	85	92	8	MMDDCCYY
ADDRESSES.ADDRESS1	93	147	55	Character
ADDRESSES.ADDRESS2	148	202	55	Character
ADDRESSES.CITY	203	232	30	Character
ADDRESSES.STATE	233	238	6	Character

ADDRESSES.POSTAL	239	248	10	Number
FSA_BENEFIT. PLAN_TYPE	249	250	2	Character
FSA_BENEFIT. ANNUAL PLEDGE	251	257	4.2	Medical Care, Dependent Care Number Format mask 9999.99
PAY_DEDUCTION. DED_CUR	258	263	3.2 (CSR-1263: increase to 4.2)	Medical Care, Dependent Care Number Format mask 999.99/chg to 9999.99 for CSR-1263
EMPLOYMENT. TERMINATION_DT	264	271	8	MMDDCCYY

## Appendix D

### Pay Cycle File Layout

Decptin.dat – Pre-Tax Commuter Inbound from vendor bi-weekly before each pay period

### General Information

- ❖ Acronym – Commuter Pretax input file from vendor.
- ❖ Use(s) – File contains employee commuter pretax deduction amounts for the pay period as supplied by the vendor.
- ❖ File type – ASCII
- ❖ File Media – Disk

### File Layout

State of Delaware Payroll Deduction File Specs				
(Records to be fixed width. Data to be all caps with commas and periods removed.)				
<b>Header Record:</b>				
Description	Start Position	End Position	Length	Comments
Record-Type	1	1	1	1 =(Header Record)
File-Create-Date	2	11	10	YYYY-MM-DD – Not an action item
Pay-End-Date (ML name “Bill To” Date)	12	21	10	YYYY-MM-DD
File-Source	22	27	6	! “WAGEWO ” PHR-1113 “CMMTR “ PHR-1113
File-Description	28	77	50	! “Wage Work Payroll Deduction File” PHR-1113 “Commuter Pretax Payroll Deduction File” PHR-1113
Fill	78	80	3	Blank
<b>Detail Record:</b>				
Description	Start Position	End Position	Length	Comments
Record-Type	1	1	1	2 = (Detail Record)
Emplid	2	7	6	Employee ID
SSN-Last4	8	11	4	last 4 digits of the National Id (SSN)
Deduction Code	12	17	6	Unique deduction code
Amount-To-Deduct	18	27	10	Pic ‘-----9v99’ assumed decimal. Unique deduction code amount.
Fill	28	80	53	Blank
<b>Trailer Record:</b>				
Description	Start Position	End Position	Length	Comments
Record-Type	1	1	1	3 = (Trailer Record)
Total-Detail-Record-Count	2	8	7	Pic ‘9999999’ no decimal
Fill	9	80	72	Blank

## Appendix D

### Pay Cycle File Layout

Decptout.dat – Pre-Tax Commuter outbound to vendor bi-weekly after each pay period

### General Information

- ❖ Acronym – DE commuter pretax deductions taken from employees in a pay period.
- ❖ Use(s) – Used to communicate, to the CPT vendor, the amount of monies taken from an employee in a pay period
- ❖ File type – ASCII.
- ❖ File Media – Disk.
- ❖ File Availability – File will be available to the vendor no later than 1200 hrs on the day following the day on which the “Confirm Process”, for the pay period being reported, is complete. Normally this will be on Tuesday, “Day 1” of the Delaware two week pay cycle.

### File Layout

<b>Header Record:</b>				
<b>Description</b>	<b>Start Position</b>	<b>End Position</b>	<b>Length/Type (Char or Num)</b>	<b>Comments</b>
Record-Type	1	1	Char 1	“1”
Filler	2	11	Char 10	Blanks
Pay-End-Date	12	21	Char 10	YYYY-MM-DD (Pay end date for the cycle in which the deductions were taken)
File-Source	22	27	Char 6	“SOD “
File-Description	28	77	Char 50	“DE CPT - Deductions taken”
Filler	78	80	Char 3	Blank
<b>Detail Record:</b>				
<b>Description</b>	<b>Start Position</b>	<b>End Position</b>	<b>Length/Type (Char or Num)</b>	<b>Comments</b>
DTL-Record-Type	1	1	Char 1	“2”
DTL-DEDCD	2	7	Char 6	
DTL-Emplid	8	13	Char 6	Employee ID
DTL-Amount-Deducted	14	24	Num 10	Pic ‘-----9v99’ assumed decimal. Floating negative sign (if applicable) No “\$” included
Filler	25	80	Char 57	Blanks
<b>Trailer Record:</b>				
<b>Description</b>	<b>Start Position</b>	<b>End Position</b>	<b>Length/Type (Char or Num)</b>	<b>Comments</b>
Record-Type	1	1	1	“3”
Total-Detail-Record-Count	2	8	7	Pic ‘9999999’ no decimal. Total number of detail records
Filler	9	80	72	Blank

## Appendix E

### Van Pool (Fleet Link File Layout)

<b><u>Field</u></b>	<b><u>Max Size</u></b>
Van Number	3
First Name	11
Last Name	17
ID	6
Amount	7

## Appendix F

### Open Enrollment File Layout (FSA)

#### DelFSAOE-FF

- ❖ Acronym - Delaware Flexible Spending Account (Central Bank/ASI)
- ❖ Use(s) - Employees Eligible and Enrolled for FSA benefits.
- ❖ File type - ASCII
- ❖ File Media - Disk

New File layout

Central Bank/ASI Enrollment  
File Layout

Created 08/27/2004  
Modified 09/26/2005

Field	Start	Stop	Length	Dec	Description
JOB.DEL_NUM_PAYS	1	2	2	0	Must be '22' or '26'
JOB.EMPLID	3	12	10	0	Right-justified, zero-filled Emplid concatenated with last four of SSN
JOB.DEPTID	13	21	9		
NAMES.LAST_NAME	22	51	30		
NAMES.FIRST_NAME	52	81	30		
NAMES.MIDDLE_NAME	82	111	30		
FSA_BENEFIT .PLAN_TYPE	112	113	2		
FSA_BENEFIT.ANNUAL_PLEDGE	114	120	7	2	Health Care, Dependent Care (Amount would be blank when the file is sent for the first time.)
ADDRESSES.ADDRESS1	121	175	55		
ADDRESSES.ADDRESS2	176	230	55		
ADDRESSES.CITY	231	260	30		
ADDRESSES.STATE	261	266	6		
ADDRESSES.POSTAL	267	276	10		
KEY PERSON INDICATOR	277	278	1		If EEs salary > current IRS limit, set to '1'; else set to '0'. Current IRS limit = 90,000



## Appendix G

### Pre-Tax Eligibility File

#### Tra\_elig.txt

- ❖ Acronym – Eligibility file for ASI– Outbound file
- ❖ Use(s) – ASI will use this full file of eligible State employees on a scheduled basis
- ❖ File type – ^ delimited .txt
- ❖ File Media – SFTP from Enna Server
- ❖ File Availability – File will be available to the vendor on Wednesday nights after the bi-weekly Pay Confirm process
- ❖ White space will be used for fill between ^'s.

### File Layout

#### Header record:

Description	Start Position	End Position	Length	Comments
Record Type	1	1	1	(Header record)
Delimiter	2	2	1	Delimited char = ^
File Create Date	3	12	10	mm/dd/yyyy
Delimiter	13	13	1	Delimited char = ^
Blank	14	384	370	

#### Detail Record:

Description	Start Field Position	End Field Position	Char or Num	Comments
EMPLID + last 4 digits of SSN	1	10	Char	Unique and randomly assigned numeric identifier + last four digits of SSN.
Delimiter	11	11	Char	Delimited char = ^
Last Name	12	41	Char	
Delimiter	42	421	Char	Delimited char = ^
First Name	43	72	Char	
Delimiter	73	73	Char	Delimited char = ^
Middle Initial	74	103	Char	
Delimiter	104	104	Char	Delimited char = ^
Address Line 1	105	159	Char	
Delimiter	160	160	Char	Delimited char = ^
Address Line 2	161	215	Char	
Delimiter	216	216	Char	Delimited char = ^
Address Line 3	217	271	Char	
Delimiter	272	272	Char	Delimited char = ^
City	273	302	Char	
Delimiter	303	303	Char	Delimited char = ^
State	304	309	Char	Uppercase
Delimiter	310	310	Char	Delimited char = ^
Postal	311	322	Char	Zip hyphen 4
Delimiter	323	323	Char	Delimited char = ^
Birth Date	324	333	Date	This field will be written to the flat file in mm/dd/yyyy
Delimiter	334	334	Char	Delimited char = ^
Gender	335	335	Char	Uppercase
Delimiter	336	336	Char	Delimited char = ^
Location	337	346	Char	
Delimiter	347	347	Char	Delimited char = ^
Employee Class	348	350	Char	
Delimiter	351	351	Char	Delimited char = ^
Empl Record #	352	354	Number	
Delimiter	355	355	Char	Delimited char = ^

Department ID -10	356	365	Char	
Delimiter	366	366	Char	Delimited char = ^
Del_Num Pays	367	368	Char	Value of 12,22 or 26 based on the number of pays the employee receives per year
Delimiter	369	369	Char	Delimited char = ^
Del_Empl_Months	370	370	Number	Number of months worked by the employee per year. Options are 1-9, 0=10, 1=11, 2= 12 or blank.
Delimiter	371	371	Char	Delimited char = ^
Multiple Job Indicator	372	372	Char	For single job employee, there will be no M.
Delimiter	373	373	Char	Delimited char = ^
Original Hire Date	374	383	Date	This field will be written to the flat file in mm/dd/yyyy format
Delimiter	384	384	Char	Delimited char = ^

**Trailer record:**

Description	Start Position	End Position	Length	Comments
Record Type	1	1	1	(Trailer record)
Delimiter	2	2	1	Delimited char = ^
Record Count	3	7	6	Number of detail records
Delimiter	9	9	1	Delimited char = ^
Blank	10	384	374	